



**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

Gennady Moshkovich

Debtor(s).

Case No.: 2:20-bk-11547-BB

CHAPTER 11

**ORDER DENYING MOTION FOR
RECONSIDERATION OF ORDER
APPROVING 363 SALE AND, IN THE
ALTERNATIVE, FOR A STAY PENDING
APPEAL**

(No hearing held)

The Court having reviewed and considered the motion of BOBS, LLC (“Bobs”) for reconsideration of this Court’s decision to authorize a sale of the real property located at 911/917 Loma Vista Drive, Beverly Hills, CA 90210 (the “Property”) or, in the alternative, for a stay pending appeal of the order authorizing the foregoing sale [Docket No. 140] (the “Motion”), and the opposition of debtor and debtor in possession Gennady Moshkovich (the “Debtor”) thereto [Docket No. 146], and having found:

1. Bobs should not under any circumstances be permitted to credit bid any portion of its alleged claims at a sale of the Property in that there is no

1 allowed or undisputed portion of its **secured** claim. A portion of its claim may
2 be undisputed, but the Debtor has disputed the **entirety** of Bobs' lien in
3 adversary proceeding number 2:20-ap-01623. As the court discussed in
4 connection with its denial of Bobs' motion to dismiss this adversary
5 proceeding, genuine issues exist as to the validity of the liens it has asserted
6 as against the Property. Therefore, as these liens are the subject of one or
7 more bona fide disputes, Bobs does not hold an **allowed** claim that is
8 secured by the Property in any amount, and the Court finds that these
9 circumstances constitute "cause" within the meaning of Bankruptcy Code
10 section 363(k) to refuse to permit Bobs to credit bid any portion of its claim at
11 a sale of the Property.

- 12 2. Bobs did not object to the sale or seek authority to credit bid at any time prior
13 to the hearing on the debtor's motion to sell the Property. Even after
14 discussion at the sale hearing of the supplement to that motion that reduced
15 the sale price of the (real) Property and increased the sale price of the related
16 personal property (because it now included artwork), when the Court called
17 upon counsel for Bobs to offer input at the sale hearing, counsel limited his
18 remarks to arguing that, in light of the reduced sale price, the Court should
19 grant Bobs' motion for relief from stay instead of permitting the sale to move
20 forward. He did not raise the issue of whether Bobs should be permitted to
21 credit bid. It was only after the Court had ruled that the sale should be
22 approved that a principal of Bobs who was also present at the hearing
23 (Rommy Shy) requested orally for the first time the opportunity to credit bid
24 with regard to the Property. The Court denied that request both because it
25 was untimely and because Bobs' liens are the subject of a bona fide dispute.
- 26 3. Thus, Bobs has not established cause for this Court to reconsider its decision
27 to approve a sale of the Property to NVSI, Inc. ("NVSI").
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- 1 4. Bobs' has not made the showing necessary to entitle it to a stay pending
2 appeal. The Motion contains no evidence or argument to support the findings
3 that must be made to entitle Bobs to such relief. In fact, the only mention of
4 such relief in the Motion appears to be a request at the end of the prayer that
5 the Court either grant a stay pending appeal or explicitly deny such relief.
- 6 5. Both the Court and Bobs have been urging the Debtor to consummate a sale
7 of the Property for months. The Property has been adequately and
8 extensively marketed and the only party who has come forward and
9 expressed an interest in purchasing the Property for cash in an amount at or
10 near the price set forth in the original sale motion is NVSI. The Court found
11 that the sale was proposed in good faith and is the product of arms-length
12 negotiations between NVSI and the Debtor. It is critical that the Debtor
13 consummate a sale promptly -- before the loan proceeds being used by the
14 Debtor to maintain the Property are exhausted. Were the Court to postpone
15 the sale, the only party that would benefit would be Bobs, as the Debtor's
16 inability to continue to maintain the Property is likely to result in the Court's
17 granting relief from stay to Bobs. All other parties in interest would be
18 prejudiced.
- 19 6. Bobs has not made, and cannot make, a showing that its request to postpone
20 the sale so that it may credit bid is likely to succeed on appeal. As discussed
21 above, on these facts, it would be inappropriate to permit Bobs to submit a
22 credit bid in any amount. However, its alleged liens will attach to the net
23 proceeds of sale to ensure that its interest, if any, in the Property is
24 adequately protected pending the outcome of this litigation. Thus, the
25 balance of hardships also weighs in favor of denying Bobs' request for a stay
26 pending appeal.

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1 In light of the foregoing, and other good cause appearing therefor,
2 **IT IS HEREBY ORDERED** that the Motion is denied. Bobs' request for
3 reconsideration of this Court's approval of a sale of the Property is **DENIED** and its
4 alternative request for a stay pending appeal is **DENIED**.

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25 Date: December 8, 2020

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28 United States Bankruptcy Judge